

**CHANGES TO THE LIST OF EXPENSES ELIGIBLE FOR
TAX ASSISTANCE FOR THE TREATMENT OF INFERTILITY
FOLLOWING ASSENT TO BILL 20**

On November 28, 2014, the Ministère des Finances made public the various changes that would be made primarily to the refundable tax credit for the treatment of infertility once assent had been given to Bill 20, *Act to enact the Act to promote access to family medicine and specialized medicine services and to amend various legislative provisions relating to assisted procreation*, introduced that same day before the National Assembly.¹

The bill, which terminates coverage under the Québec Health Insurance Plan of almost all services related to in vitro fertilization activities, also provided for, at the time of its introduction, new standards for carrying out such activities in Québec.

To mitigate the impact of this deinsurance, it was announced that the tax assistance granted through the refundable tax credit for the treatment of infertility would be extensively restructured so that certain in vitro fertilization treatments remain financially accessible.

As part of that restructuring, new eligibility conditions respecting the tax credit were introduced so that the tax assistance granted for expenses incurred after the date on which Bill 20 received assent cover only a limited number of in vitro fertilization cycles and is restricted to persons who do not have children and who did not choose voluntary sterilization for contraceptive purposes.

The terms for calculating the tax credit were also reviewed to take into account the financial ability of households to contribute to the payment of their in vitro fertilization treatment. To that end, rate tables were established to offset 20% to 80% of expenses paid in a year, up to \$20 000.

The first table, applicable to persons living as a couple, grants a rate of 80% to couples with a family income of \$50 000 or less. For couples with a family income over \$50 000, the tax credit rate is gradually reduced, attaining 20% when family income reaches \$120 000.

The second table, applicable to persons living alone, grants a rate of 80% in respect of income of \$25 000 or less. This rate is gradually reduced, attaining 20% when income reaches \$60 000.

In addition, the list of expenses eligible for the refundable tax credit for the treatment of infertility was reviewed to prevent tax assistance from being provided with respect to expenses paid for treatment that may contravene the standards established in Bill 20, as introduced, such as the standard pertaining to the age of a woman who opts for an in vitro fertilization activity. For the same reasons, consequential amendments were made to the tax credit for medical expenses and the tax credit for expenses relating to medical care.

1 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin* 2014-10, November 28, 2014.

As part of the clause-by-clause consideration of Bill 20 by the Committee on Health and Social Services, a number of provisions pertaining to assisted procreation were amended, the main amendment having led to the removal of the age limits for women who opt for an in vitro fertilization activity. The bill, as amended, received assent on November 10, 2015.²

To take into account the amendments made to Bill 20 before it received assent, changes will be made to certain measures announced by the Ministère des Finances on November 28, 2014.³

More specifically, the list of expenses eligible for the refundable tax credit for the treatment of infertility will be replaced, to provide that expenses paid by an individual after December 31, 2014 for in vitro fertilization treatment in order to enable the individual or a person participating with the individual in assisted procreation to have a child will be considered expenses eligible for the tax credit only if they are paid:

- for an in vitro fertilization activity carried out in a centre for assisted procreation that holds a licence issued in accordance with the *Act respecting clinical and research activities relating to assisted procreation*,⁴
- for an in vitro fertilization activity carried out in an institution outside Québec, unless, in the case of in vitro fertilization activities with regard to this treatment were begun after December 31, 2014 by the individual or the person who is the other party to the parental project, the person who began such activities was domiciled in Québec at the time the expenses were incurred;
- for drugs relating to an in vitro fertilization activity, if the following conditions are met:
 - they can be legally acquired for use by a person only if they are prescribed by a physician,
 - they are not covered by an insurance plan,
 - their purchase is registered by a pharmacist;
- as expenses relating to an assessment of a person who is a party to the parental project, contemplated in section 10.2 of the *Act respecting clinical and research activities relating to assisted procreation*,⁵ where such an assessment is required to begin or continue the in vitro fertilization treatment;
- as travel expenses described in paragraph *h* or *i* of section 752.0.11.1 of the *Taxation Act*,⁶

2 S.Q. 2015, chapter 25.

3 See note 1.

4 CQLR, chapter A-5.01.

5 That section was introduced by Bill 20.

6 Briefly, paragraph *h* of section 752.0.11.1 of the *Taxation Act* (CQLR, chapter I-3) concerns expenses paid to a person engaged in the business of providing transportation services between the locality where a person undergoing in vitro fertilization treatment dwells and the centre for assisted procreation, if the centre is not less than 40 km from the locality. Paragraph *i* of section 752.0.11.1 of the *Taxation Act* concerns reasonable travel expenses, other than expenses described in paragraph *h*, incurred in respect of a particular person to obtain medical or paramedical services in a place that is not less than 80 km from the locality where the particular person dwells, if the route travelled was the most reasonably direct route.

- as reasonable travel and lodging expenses of a particular person and, if the particular person cannot travel without assistance, of the person who accompanies the particular person for in vitro fertilization treatment in a centre for assisted procreation located in Québec, where there is no centre for assisted procreation in Québec within a radius of 250 kilometres from the locality in Québec where the particular person lives, provided a physician certifies compliance with these conditions.

In addition, to be considered eligible expenses, expenses must be paid for a non-insured in vitro fertilization treatment in which a single embryo is transferred or, in accordance with the decision of a physician having considered the quality of the embryos:

- a maximum of two embryos are transferred, in the case of a woman 36 years of age or under, or three embryos including no more than two blastocysts, in the case of a woman 37 years of age or over, where the transfer is carried out not later than November 10, 2015; or
- a maximum of two embryos are transferred, in the case of a woman 37 years of age or over, where the transfer is carried out after November 10, 2015.

Changes will also be made to the list of expenses paid after December 31, 2014 for in vitro fertilization treatment that are excluded from expenses eligible for the tax credit for medical expenses and the tax credit for expenses relating to medical care, in order to remove the exclusion of expenses attributable to in vitro fertilization activities carried out with respect to women under the age of 18 or over the age of 42.

Moreover, to avoid any ambiguity as to the scope of the expression "in vitro fertilization cycle," which serves to establish the extent of coverage for the purposes of the refundable tax credit for the treatment of infertility, a definition of the expression will be introduced into the tax legislation.

More specifically, will be considered an "in vitro fertilization cycle" any cycle which aims to obtain the formation of one or more embryos for transfer and which includes the following stages:

- egg retrieval or donation, which may be preceded by ovarian stimulation or ovulation induction;
- sperm extraction or donation;
- actual in vitro fertilization and, as the case may be, preservation of surplus embryos;
- transfer of the embryos obtained until a live birth results.⁷

A cycle that is interrupted because a quality embryo was not obtained for transfer may also be considered an in vitro fertilization cycle.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et des politiques locales et autochtones at 418 691-2236.

The English and French versions of this bulletin are available on the Ministère des Finances website at www.finances.gouv.qc.ca.

⁷ For greater clarity, fresh or frozen embryos may be transferred in separate tests.